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Human Genome Sciences, Inc.
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In re Application of FRASER et al
U.S. Application No.: 09/830,228
Int. Application No.: PCT/US98/12764
Int. Filing Date: 18 June 1998
Priority Date: 20 June 1997
Attorney Docket No.: PB370US
For: *BORRELIA BURGDORFERI*
POLYNUCLEOTIDES AND SEQUENCES

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is in response to applicants' "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 24 April 2001.

BACKGROUND

On 18 June 1998, applicants filed international application PCT/US98/12764, which claimed priority of an earlier United States application filed 20 June 1997. The twenty-month period for paying the basic national fee in the United States expired at midnight on 22 February 1999 (20 February 1999 was a Saturday).

International application PCT/US98/12764 became abandoned as to the United States at midnight on 22 February 1999 for failure to pay the basic national fee.

On 24 April 2001, applicants filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, authorization to charge the petition fee set forth in 37 CFR 1.17(m), and a statement that "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional."

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless

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previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the requisite basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a properly executed an oath or declaration in compliance with 37 CFR 1.497 must be submitted.



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